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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,138	09/16/2005	Nicholas Andrew Drought	920602-99275	4556
23644 7590 02/04/2010 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER KUMAR, RAKESH				
ART UNIT 3651		PAPER NUMBER		
NOTIFICATION DATE 02/04/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

Office Action Summary

Application No.

10/531,138

Applicant(s)

DROUGHT ET AL.

Examiner

RAKESH KUMAR

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6 and 11-18 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 7-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6 and 11-18 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/05/2009
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/05/2009 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5-9,11-13,15 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Honan (US 5,348,158).

Referring to claim 1. Honan discloses an apparatus for releasing tablets from a blister pack (Figure 1) having a plurality of tablets contained in corresponding blisters, the apparatus comprising abutment means (including 30-33 Figure 7), receiving means

(including 13 and 12; Figure 1) for receiving a blister pack with any selected one of a plurality of blisters of the pack in registry with the abutment means (including 30-33 Figure 7), the receiving means (including 13 and 12; Figure 1) comprising a pair of opposed jaws (member 13 and 12), the jaws being moveable relative to one another (see Figure 1 and 2), either one of the abutment means (32) and the receiving means (including 13 and 12) being moveable (in this instance the abutment means referring to members 30-33; Figure 7) to cause a collapsing force to be exerted on a selected blister (15; Figure 6) thereby to release a tablet (16) from the blister (15),

wherein the apparatus includes biasing means (22) integrally formed with a jaw (member 12 and 13) for urging the receiving means into engagement with the blister pack (see triangular members engaged with the blister pack 14; Figure 6), and the receiving means (including 13 and 12; Figure 1) is so arranged that said engagement releasably retains, and locates, the blister pack in position (by circumferential ridges of member 13; see Figure 1) relative to the abutment means (including 30-33 Figure 7) prior to the release of the tablet (16), and wherein the biasing means (22) comprises a resiliently flexible substantially U-shaped connecting arm (see close up of member 22; Figure 4) that is operable to bias the jaws (member 13 and 12) into a neutral position (as in Figure 4), in which they are spaced apart so as to be able to receive a blister pack allowing a user to move the jaws (member 12 and 13) against the action of the biasing means (22) by inserting a blister pack (15) into the space between the jaws (member 12 and 13).

Referring to claim 2. Honan discloses an apparatus wherein the abutment means (including 30-33 Figure 7) is moveable towards a blister of a pack retained in the receiving means (member 13 and 12).

Referring to claim 3. Honan discloses an apparatus wherein the receiving means (member 13 and 12) is arranged to receive a blister pack so that the selected blister faces the abutment means (including 30-33 Figure 7), the latter being operable to exert said collapsing force by directly engaging the blister (Figure 6).

Referring to claim 5. Honan discloses an apparatus wherein one of the jaws (12; Figure 6) is so shaped as to locate a selected blister in registry with the abutment means (including 30-33 Figure 7), and has a recess of a complimentary shape to that of a blister (see blister resting in Figure 6).

Referring to claim 6. Honan discloses an apparatus wherein the abutment means (including 30-33; Figure 7) comprises a plunger (31 and 32) moveably mounted on a jaw (12) of the receiving means (including 13 and 12; Figure 1).

Referring to claim 17. Honan discloses an apparatus wherein the biasing means (22) is integrally formed with a jaw (12 and 13).

Referring to claim 18. Honan discloses an apparatus wherein the biasing means (22) comprises a resiliently flexible connecting arm (see ledge in Figure 6). U shaped in Figure 4.

Referring to claims 11,12 and 13. Honan discloses an apparatus wherein the apparatus includes a further biasing means (33; Figure 7) which acts between the plunger (31 and 32) and the jaw (12) in which it is mounted so as to urge the plunger away from the other jaw (13; Figure 6).

Referring to claim 15. Honan discloses an apparatus wherein the apparatus includes a base (35; Figure 5) for supporting the jaws (12 and 13) on a supporting surface, the base (35) including an opening (opening 37) and a chute (passage 20) for conducting a tablet released from a blister pack to the opening.

Referring to claim 16. Honan discloses an apparatus wherein the plunger (31 and 32) has a head (30), to be pressed by the user, which is considerably larger than a blister (Figure 6).

Allowable Subject Matter

Claim 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 11/05/2009 have been fully considered but they are not persuasive. See modified rejection above.

The applicant argues "Honan does not disclose biasing means for urging the receiving means into engagement with the blister pack." It is in the view of the Office the hinge member (22) of Honan acts as a biasing means to bias the opposing jaws into engagement with the blister pack as can be see in the open view of the disclosed dispenser in Figure 3 (Honan) and the biased view as shown in Honan view in Figure 6. The applicant has not differentiated how the biasing means as disclose in the claimed invention is materially different from the way the apparatus of Honan functions, thus according to the broad interpretation of the claimed limitations it is understood the hinge member (22) functions as a biasing member to aid in the biasing of the opposing jaws (12) and (13) into engagement with the blister pack.

The applicant further argues "Honan does not disclose biasing means operable to bias jaws into a neutral position, in which they are spaced apart so as to be able to receive a blister pack." The applicant is directed to Honan's Figure 3 wherein the biasing means (22) is used to bias jaws (12 and 13) into a neutral position (open position) in which they are spaced apart so as to be able to receive a blister pack (See Figure 3).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAKESH KUMAR whose telephone number is (571) 272-8314. The examiner can normally be reached on M-F 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/
Supervisory Patent Examiner, Art
Unit 3651

/RAKESH KUMAR/
Examiner, Art Unit 3651

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